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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,273	01/16/2001	Stephen Andrew Howell	CE01538R	3549

7590

07/06/2004

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EXAMINER

CRAVER, CHARLES R

ART UNIT

PAPER NUMBER

2682

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/673,273

Applicant(s)

HOWELL ET AL.

Examiner

Charles R Craver

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 6 and 11-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim Objections

Claims 6 and 11-19 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend on a multiple dependent claim (claim 5). See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims are rejected under 35 U.S.C. 103(a) as being unpatentable over Messiet, US Pat 5,875,404 in view of Martineau, US Pat 5,915,226.

Claims 1, 7: Messiet discloses a data carrier system and method comprising a first and second SIM card 1 and 2 couplable to a communications device 5, the second couplable in preference to the first (col 2 lines 25-47), wherein inherently power is provided during a determined time (via a battery) and wherein the second SIM may be decoupled from the device (col 2 line 66-col 3 line 60), thereby reverting to the first SIM for executing a task.

Messiet fails to disclose that the first SIM is selectively couplable to the device, but rather is affixed semi-permanently. However, Martineau discloses in a similar device using two SIM cards, that the first card may be permanent as well, or may be removable like the second (col 5 lines 18-54). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Messiet to allow the removal of the first card in order to allow for easier upgrades i.e. getting a card with more memory for numbers and messages etc and provide a more 'modern' device, see Martineau col 1 lines 61-67. **Claims 3, 9:** the use of a sleep mode in a cellular device was notoriously well-known at the time of the invention and as such the examiner takes Official Notice of such a feature, asserting that one of ordinary skill in the art at the time of the invention would have found it obvious to add a sleep mode to Messiet in view of Martineau in order to save power. **Claims 4, 10:** Messiet discloses that the first card may be substantially permanently in engagement with a means for receiving the card.

Allowable Subject Matter

Claims 2 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 2 and 8 teach towards a system and method for selectively coupling two data carriers to a communications device, the second device being coupled in preference to the first, wherein a supply of power is ensured to the device during a determined time, and wherein the power is ensured in response to a command to extinguish the supply of power to the device thereby allowing execution of a task requiring the first data carrier.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stein, Kolev, Hidaka, Jokimies, Maekawa, Turban and Maekawa discuss SIM cards.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9314 for both formal and informal/draft communications, labeled as such.

Hand delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA, sixth floor (receptionist).

Any inquiry concerning this or earlier communications from the examiner should be directed to examiner Charles Craver at (703) 305-3965.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vivian Chin, can be reached at (703) 308-6739.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 305-4700.

CC

C.Craver

June 21, 2004

 6-21-04
CHARLES CRAVER
PATENT EXAMINER